

Mark S. Lynch  
President & CEO

July 20, 2006

Hon. Teresa A. Santiago  
Chairperson and Executive Director  
New York State Consumer Protection Board  
5 Empire State Plaza  
Suite 2101  
Albany, New York 12223-1556

Dear Ms. Santiago:

This is in response to your letter of July 14, 2006, concerning the electricity capacity markets in New York City. The issue you describe came to our attention immediately after the May capacity auctions, and we immediately investigated the issue and reported our findings to the Federal Energy Regulatory Commission (FERC), who regulates our markets and approved the pricing regime which gave rise to the current issue.

We are attaching a copy of the letter we sent to FERC. In brief, the letter shows that the arrangements that permit the pricing regime you describe were made well before the New York Independent System Operator (NYISO) even existed. They were made in order to induce unregulated companies to bid on the facilities being offered by Con Ed as part of its generating plant divestiture. Those arrangements were approved by Federal and State government and by Con Ed. The situation described in your letter was specifically foreseen at that time, and valuable consideration was paid for the power plants.

The NYISO is not a governmental organization and is not in a position to change the determination made by appropriate governmental organizations pursuant to Federal and State law. We appreciate your concern and would welcome the opportunity to meet with you and Chairman Flynn to discuss the matter further.

Sincerely yours,

**Mark S. Lynch**

Attachment  
cc: T. Niazi